

1 WILLIAM A. ISAACSON (*Pro hac vice*)
(wisaacson@bsfllp.com)
2 STACEY K. GRIGSBY (*Pro hac vice*)
(sgrigsby@bsfllp.com)
3 NICHOLAS WIDNELL (*Pro hac vice*)
(nwidnell@bsfllp.com)
4 BOIES SCHILLER FLEXNER LLP
1401 New York Avenue, NW
5 Washington, DC 20005
Tel: (202) 237-2727; Fax: (202) 237-6131
6

7 RICHARD J. POCKER #3568
(rpocker@bsfllp.com)
8 BOIES SCHILLER FLEXNER LLP
300 South Fourth Street, Suite 800
Las Vegas, Nevada 89101
9 Tel: (702) 382-7300; Fax: (702) 382-2755

10 DONALD J. CAMPBELL #1216
(djcc@campbellandwilliams.com)
11 J. COLBY WILLIAMS #5549
(jcw@campbellandwilliams.com)
12 CAMPBELL & WILLIAMS
700 South 7th Street
13 Las Vegas, Nevada 89101
Tel: (702) 382-5222; Fax: (702) 382-0540
14

15 *Attorneys for Defendant Zuffa, LLC, d/b/a*
Ultimate Fighting Championship and UFC
16

17 **UNITED STATES DISTRICT COURT**

18 **DISTRICT OF NEVADA**

19 Cung Le, Nathan Quarry, Jon Fitch, Brandon
20 Vera, Luis Javier Vazquez, and Kyle Kingsbury,
on behalf of themselves and all others similarly
21 situated,

22 Plaintiffs,

23 v.

24 Zuffa, LLC, d/b/a Ultimate Fighting
Championship and UFC,

25
26 Defendant
27
28

No.: 2:15-cv-01045-RFB-(PAL)

**DECLARATION OF NICHOLAS
A. WIDNELL IN SUPPORT OF
ZUFFA, LLC'S MOTION TO
EXCLUDE THE TESTIMONY OF
DR. HAL SINGER UNDER FED.
R. EVID. 702 AND DAUBERT**

1 I, Nicholas A. Widnell, declare as follows:

2 1. I am a member in good standing of the bar of the District of Columbia. I am
3 admitted *pro hac vice* to practice before this Court. I am a Partner in the law firm Boies Schiller
4 Flexner LLP (“BSF”), counsel for Zuffa, LLC (“Zuffa”) in the above captioned action in the U.S.
5 District Court for the District of Nevada, *Le et al. v. Zuffa, LLC*, No. 2:15-cv-01045-RFP-PAL.

6 2. I make this declaration in support of Zuffa’s Motion to Exclude the Testimony of Dr.
7 Hal Singer under Fed. R. Evid. 702 and *Daubert* and Related Materials (“Motion”). Based on my
8 review of the files, records, and communications in this case, I have personal knowledge of the facts
9 set forth in this Declaration and, if called to testify, could and would testify competently to those
10 facts under oath.

11 3. With the exception of certain documents attached to this Declaration that have red
12 boxes added to them to indicate text cited in the Motion, the attached documents are true and correct
13 copies the documents cited the Motion.

14 4. Attached hereto as Exhibit 1 is a true and correct copy of the Expert Report of Dr. Hal
15 J. Singer, which is dated August 31, 2017.

16 5. Attached hereto as Exhibit 2 is a true and correct copy of the Rebuttal Expert Report
17 of Dr. Hal J. Singer, which is dated January 12, 2018.

18 6. Attached hereto as Exhibit 3 is a true and correct copy of the Expert Report of
19 Professor Robert H. Topel, which is dated October 27, 2017.

20 7. Attached hereto as Exhibit 4 are true and correct copies of excerpts of the transcript of
21 the September 27, 2017 deposition of Dr. Hal J. Singer taken in this action.

22 8. Attached hereto as Exhibit 5 are true and correct copies of excerpts of the transcript of
23 the January 23, 2018 deposition of Dr. Hal J. Singer taken in this action.

24 9. Attached hereto as Exhibit 6 is a true and correct copy of the Horizontal Merger
25 Guidelines issued by the U.S. Department of Justice and the Federal Trade Commission, which were
26 issued on August 19, 2010.

27 10. Attached hereto as Exhibit 7 is a true and correct copy of excerpts of the transcript of
28 the January 26, 2018 deposition of Professor Andrew Zimbalist taken in this action.

11. Attached hereto as Exhibit 8 is a true and correct copy of the Expert Report of Professor Paul Oyer, which is dated October 27, 2017.

12. Attached hereto as Exhibit 9 is a true and correct copy of the Expert Rebuttal Report of Professor Alan Manning, which dated January 12, 2018.

13. Attached hereto as Exhibit 10 is a true and correct copy of excerpts of the transcript of the February 8, 2018 deposition of Professor Alan Manning taken in this action.

14. Attached hereto as Exhibit 11 is a true and correct copy of an article titled *Pay and Performance in Major League Baseball* by Gerald Scully, which was published in the American Economic Review in 1974.

15. Attached hereto as Exhibit 12 is a true and correct copy of an article titled *Concentrating on the Fall of the Labor Share* by David Autor, David Dorn, Lawrence F. Katz, Christina Patterson, and John Van Reenen, which was published in the American Economic Review: Papers & Proceedings in 2017.

16. Attached hereto as Exhibit 13 is a true and correct copy of an article titled *Player Salary Share and the Distribution of Player Earnings* by Gerald Scully, which was published in Managerial and Decision Economics journal in 2004.

17. Attached hereto as Exhibit 14 is a true and correct copy of an article titled *Panel Data Estimates of the Production Function and Product and Labor Market Imperfection* by Sabien Dobbelaere and Jacques Maïress, which was published in the Journal of Applied Economics in 2013.

18. Attached hereto as Exhibit 15 is a true and correct copy of an unpublished working paper titled *The Rise of Market Power and the Macroeconomic Implications* by Jan De Loecker and Jan Eeckhou, which is dated August 24, 2017.

19. Attached hereto as Exhibit 16 is a true and correct copy of an article titled *The Decline of the U.S. Labor Share* by Michael W.L. Elsby, Bart Hobijn, and Aysegul Sahin, which was published in Brookings Papers on Economic Activity in 2013.

20. Attached hereto as Exhibit 17 is a true and correct copy of a reported titled “The Economics of NFL Team Ownership” by Kevin M. Murphy and Robert H. Topel, which bears the date 2009.

21. Attached hereto as Exhibit 18 is a true and correct copy of the Expert Rebuttal Report of Professor Andrew Zimbalist, which is dated December 26, 2017.

22. Attached hereto as Exhibit 19 is a true and correct copy of an article titled *Demand for the Ultimate Fighting Championship: An Econometric Analysis of PPV Buy Rates*, which was published in the Journal of Business and Economics in 2015.

23. Attached hereto as Exhibit 20 is a reference tool, a “Glossary of Terms in Dr. Hal Singer’s Expert Report Referenced in Zuffa, LLC’s Motion to Exclude the Testimony of Dr. Hal Singer under Fed. R. Evid. 702 and *Daubert*,” that I created for the Court’s convenience in referencing certain terminology used in Dr. Singer’s Expert Report that is referenced in Zuffa’s Motion. The Glossary contains excerpts of Dr. Singer’s Expert Report that pertain to the terms in the Glossary.

24. Attached hereto as Exhibit 21 are true and correct copies of excerpts of the transcript of the December 9, 2017 deposition of Professor Roger Blair taken in this action.

25. Attached hereto as Exhibit 22 is a true and correct copy of the Expert Report of Professor Roger D. Blair, which is dated November 15, 2017.

26. Attached hereto as Exhibit 23 is a true and correct copy of an excerpt of the book *Federal Antitrust Policy: The Law of Competition and Its Practice*, Second Edition, by Herbert Hovenkamp, which was published by the West Group in 1999.

27. Attached hereto as Exhibit 24 is a true and correct copy of an excerpt of the transcript of the March 3, 2017 deposition of Jeremy Lappen taken in this action.

28. Attached hereto as Exhibit 25 is a true and correct copy of an excerpt of the transcript of the August 3, 2017 deposition of Scott Coker taken in this action.

29. Attached hereto as Exhibit 26 is a true and correct copy of an excerpt of the transcript of the deposition of Thomas Atencio taken on February 9, 2017 and February 10, 2017 in this action.

30. Attached hereto as Exhibit 27 is a true and correct copy of an excerpt of the transcript of the April 18, 2017 deposition of Carlos Silva taken in this action.

31. Attached hereto as Exhibit 28 is a true and correct copy of a document dated April 15, 2011, bearing the Bates number ZUF-00122280 that was produced by Zuffa in this action.

32. Attached hereto as Exhibit 29 is a true and correct copy of an excerpt of the transcript of the February 14, 2017 deposition of Plaintiff Javier Vazquez taken in this action.

33. Attached hereto as Exhibit 30 is a true and correct copy of a document dated July 11, 2011, bearing the Bates number ZFL-1224424 that was produced by Zuffa in this action.

34. Attached hereto as Exhibit 31 is a true and correct copy of an excerpt from the transcript of the March 23, 2017 deposition of Lorenzo Fertitta taken in this action.

35. Attached hereto as Exhibit 32 is a true and correct copy of a document which was executed by Zuffa on January 31, 2008 and bears the Bates number ZUF-00156469 that was produced by Zuffa in this action.

36. Attached hereto as Exhibit 33 is a true and correct copy of an excerpt from the transcript of the January 25, 2017 deposition of Denitza Batchvarova taken in this action.

37. Attached hereto as Exhibit 34 is a true and correct copy of an excerpt from the transcript of the August 15, 2017 30(b)(6) deposition of Zuffa, LLC regarding Fighter Compensation taken in this action.

38. Attached hereto as Exhibit 35 is a true and correct copy of a document that contains the date February 10, 2017 and bears the Bates number GBP000003. The document was produced by Golden Boy Promotions, Inc., pursuant to a subpoena issued by Plaintiffs in this action.

39. Attached hereto as Exhibit 36 is a true and correct copy of the Declaration of Abraham Genauer, which was signed and executed on October 26, 2017.

I declare under penalty of perjury under the laws of the United States of America that the foregoing facts are true and correct. Executed this 16th day of February, 2018 in Washington, D.C.

/s/Nicholas A. Widnell

Nicholas A. Widnell